SUPREME COURT OF INDIA
Bench: Justices A. S. Bopanna and M. M. Sundresh
Date of Decision: 5th March 2024

CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. [Arising out of SLP (C) Nos. 16134-16135 of 2022]

THE TELANGANA RESIDENTIAL EDUCATIONAL INSTITUTIONS RECRUITMENT BOARD ...APPELLANT(S)

VERSUS

SALUVADI SUMALATHA & ANR. ...RESPONDENT(S)

Legislation:

The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order 1975
GOMs No. 674 dated 20.10.1975
GOMs No. 124 dated 07.03.2002
Rule 22 of the Telangana State and Subordinate Service Rules, 1996

Subject: Civil appeal concerning recruitment procedure compliance with regional reservation laws and principles of merit and local candidate preference.

Headnotes:

Recruitment – Local and Non-Local Candidates – legality of the recruitment process conducted by the Telangana Residential Educational Institutions Recruitment Board, where the contention was regarding the allocation of posts to local and non-local candidates as per the Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order 1975. [Para 4-5, 7, 13-14]

Amendment to Government Order – Clarification of Recruitment Process – held – The amendment to G.O.P No. 763 via GOMs No. 124 dated 07.03.2002 mandates filling up 30% of posts first with both locals and non-locals on the basis of merit, followed by filling the remaining 70% with locals. The Court found that the recruitment process adhered to this mandate. [Para 5, 13]

Interpretation of Recruitment Rules – Zone Preferences – The Court held that a candidate could be considered for a zone as per their preference and merit, thereby rejecting the argument that respondent no. 2 should not have been considered for a zone which was her second preference. [Para 8, 14]

Judicial Interference in Recruitment Process – Limitations – emphasized – The Supreme Court stressed the need for judicial restraint in interfering with the decisions of recruitment agencies unless there is evidence of illegality, material irregularity, or mala fides. Reliance was placed on the decision in Dalpat Abasaheb Solunke v. B.S. Mahajan, (1990) 1 SCC 305. [Para 14]

Decision – Upholding of Recruitment to Respondent No. 2 – The Court set aside the High Court's decision, affirming the recruitment of respondent no. 2 and thus upholding the recruitment process conducted by the appellant. [Para 15]

Referred Cases:

- Dalpat Abasaheb Solunke v. B.S. Mahajan, (1990) 1 SCC 305

J U D G M E N T

M. M. Sundresh, J.

1. Leave granted.

2. By the impugned order, the Division Bench of the High Court of Telangana confirmed the decision of the Learned Single Judge by allowing the writ petition filed by respondent no.1, setting aside the recruitment made by the appellant in favour of respondent no.2 and ordered for redrawing of the merit list.

3. Heard learned senior counsel appearing for the parties.

BRIEF FACTS

4. The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order 1975 came into existence vide GOMs No. 674 dated 20.10.1975 in exercise of the powers conferred by Clauses (1) and (2) of Article 371D of the Constitution of India, 1950 upon the President of India. The aforesaid Government Order confers discretion to the State Government in respect of different departments and categories of posts to constitute committees for rendering adequate advice to it on the allotment of persons to State, Zonal and District cadres.

5. The Government of Andhra Pradesh issued instructions vide G.O.P No. 763 dated 15.11.1975 highlighting the methodology for filling up the vacancies. Annexure II of the said instructions which is relevant for the purpose of deciding the *lis* underwent an amendment vide GOMs No. 124 dated 07.03.2002 which reads as follows:

“In the said Government, orders.

(1) In the Annexure-II

(1) For paragraphs 3 and 4, the following shall be substituted, namely,

> "3: The Provisional list shall be divided into two parts. The first part shall comprise 30% of the posts consisting of combined merit lists of locals as well as non-locals and the remaining second part shall comprise the balance 70% of the posts consisting of locals only and the posts shall be filled duly following the rule of reservation."

Thus, as per the amendment to instructions in G.O.P No. 763 dated 15.11.1975, 30% of the posts are to be filled up first on the basis of merit by both locals and non-locals constituting the first part, and the remaining 70% is to be filled up with local reservation, subject to Rule of Reservation as per the Roster Point.

6. Rule 22 of the Telangana State and Subordinate Service Rules, 1996 mandates that appointments shall be made in the order of rotation on the basis of a 100 Point Roster. The category of Scheduled Castes (Women) comes under Roster Point No.2.

7. The appellant being the recruitment agency issued a Notification No. 03/2018 dated 31.07.2018 inviting applications from eligible candidates for the recruitment to the post of junior lecturers in Residential Educational Institutions Societies. As per paragraph V sub-paragraph 4 of the said notification, the zonal and local reservations shall be followed as per paragraph 8 of Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order 1975 (GOM No. 674, dated 20.10.1975) read with GOMs No. 124 dated 07.03.2002. Paragraph VIII concerns itself with the procedure of selection of which sub-paragraph 4 is of relevance:

> "4. The candidates will be selected and allotted to the Residential Educational Institutions Societies in Telangana State as per the option exercised and as per their rank in the merit list and as per zonal preference for allotment of candidates against available vacancies after verification of Certificates, Community and Category wise for the vacancies available as required."

8. Thus, the candidates were duty bound to exercise their options and the allotment would accordingly be made as per their rank in the merit list, based upon zonal preference. In other words, no candidate will be considered to

any other zone not opted for and therefore such consideration is confined among the ones preferred. For the sake of clarity, if a candidate could not get allotment in their first preferred zone for want of merit in the zone that they belong to, they shall be considered in the second preferred option.

9. Respondent nos.1 and 2 belong to Roster Point No.2 (Scheduled Caste Women). Respondent no.1, being a local, sought her first preference for Zone VI, while it was the second choice for respondent no.2, after Zone V. Respondent no.2 on merit obtained 35th rank while respondent no.1 stood at 49th rank.

10. Respondent no.1 filed a writ petition *inter alia* contending that the ratio has to be at 40:60, and she being a local with her first preference under Zone VI ought to have been recruited as against respondent no. 2. The learned Single Judge proceeded to allow the writ petition by fixing the ratio at 40:60 and held that there was no basis for fixing the reservation, while respondent no. 2 ought not to have been permitted to be considered under Zone VI, that being her second preference. Incidentally, it was held that out of the 7 vacancies, 4 vacancies had to be filled by following the rule of reservation, leaving 3 remaining vacancies for the unreserved category. This view of the learned Single Judge was approved by the Division Bench forcing the appellant to approach this Court.

SUBMISSIONS

11. Learned senior counsel appearing for the appellant submits that both the Courts have not taken into consideration the amendment made to G.O.P No. 763 dated 15.11.1975 vide GOMs No. 124 dated 07.03.2002. There were actually 7 posts out of which 5 were earmarked for local reservation. Out of the remaining two vacancies, one was to be filled up by Scheduled Caste Women. Respondent no.1 being ranked below respondent no.2 was not considered. In any case, there is absolutely no bar

for a candidate to be considered in a different zone, provided that such option is duly exercised. The said submission is reiterated by the learned counsel appearing for respondent no.2.

12. *Per contra*, learned counsel appearing for respondent no.1 submitted that no fair procedure was adopted. The High Court has rightly considered the ratio and granted the relief. It has not been demonstrated clearly before the High Court as to the logic and reasoning behind the application of 30:70, apart from earmarking only 2 posts out of 7 for both local and non-local candidates.

DISCUSSION

13. The amendment made to G.O.P No. 763 dated 15.11.1975 vide GOMs No. 124 dated 07.03.2002 does not leave any room for doubt. 30% of the posts meant for both locals and non-locals have to be mandatorily filled up first before going for the remaining 70%. Similarly, the Government clarified vide GOMs No. 924 dated 12.12.2007 that all the departments are duty bound to complete recruitment process by adopting the 30:70 ratio which reads as follows:

> "All the Departments are hereby direct to maintain 70% of reservation in direct Recruitment to Locals in respect of posts Gazetted after 1975, after the implementation of the provision of Presidential Order, as per the list appended, so as to protect the interests of locals"

Therefore, the High Court fell into an error in not only adopting a wrong ratio but also fixing 70% first. On a reading of the notification, it is amply clear that a candidate is not non-suited from being considered in another zone subject to the only condition that it should form part of the option that she has exercised. This is exactly what respondent no.2 did.

14. Courts will have to be cautious and therefore slow in dealing with recruitment process adopted by the recruitment agency. A lot of thought process has gone into applying the rules and regulations. Merely because

a recruitment agency is not in a position to satisfy the Court, a relief cannot be extended to a candidate deprived as it will have a cascading effect not only on the said recruitment of respondent no.2, but also to numerous others as well. In such view of the matter, courts are duty bound to take into consideration the relevant orders, rules and enactments before finally deciding the case. In this regard, reliance is placed on the decision of this Court in **Dalpat Abasaheb Solunke v. B.S. Mahajan, (1990) 1 SCC 305** where it was held:

> "12. It will thus appear that apart from the fact that the High Court has rolled the cases of the two appointees in one, though their appointments are not assailable on the same grounds, the court has also found it necessary to sit in appeal over the decision of the Selection Committee and to embark upon deciding the relative merits of the candidates. **It is needless to emphasise that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc.** It is not disputed that in the present case the University had constituted the Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so called comparative merits of the candidates as assessed by the court, the High Court went wrong and exceeded its jurisdiction."
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> (emphasis supplied)

15. In the case on hand, we have no iota of doubt that the appellant has correctly followed the mandate of law. Therefore, we are inclined to set aside the impugned order passed by the Division Bench and that of the learned Single Judge of the Telangana High Court. Accordingly, the impugned order is set aside and the appeals stand allowed by restoring the recruitment made in favour of respondent no. 2.

16. No order as to costs.

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